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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11
12 In the Matter of the Accusation Against:

13 **ELLEN MARIE MUIR**
42200 Moraga Road Apt. 21F
14 Temecula, CA 92591

15 **Registered Nurse License No. 690354**

16 Respondent.

Case No. **2013-92**
ACCUSATION

17
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs.

23 2. On or about October 11, 2006, the Board of Registered Nursing issued Registered
24 Nurse License Number 690354 to Ellen Marie Muir (Respondent). The Registered Nurse License
25 expired on October 31, 2008, and has not been renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS

6. Section 2761 of the Code provides, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

...

(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action...

COST RECOVERY

7. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Disciplinary Action by the North Carolina Board of Nursing)**

3 8. Respondent is subject to disciplinary action under Code section 2761,
4 subdivision (a)(4), on the grounds of unprofessional conduct in that Respondent was disciplined
5 by the North Carolina Board of Nursing ("North Carolina Board") as set forth below.

6 a Respondent is the holder of Registered Nurse Certificate #194542 in the State
7 of North Carolina, which certificate expires on September 30, 2013.

8 b On April 16, 2010, Respondent signed a contract for participation in the North
9 Carolina Board's Alternative Program for Chemical Dependency (AP). Participation in the
10 program required that Respondent adhere to all of the provisions of the AP contract.

11 c The AP contract conditions state that if evidence is received of non-compliance
12 with the terms of the contract, participation in the program would be terminated and the license
13 would be voluntarily surrendered for a minimum of one (1) year and until the licensee submits
14 evidence of a minimum of one (1) year of sobriety.

15 d On January 27, 2012, Respondent failed to comply with the AP contract when
16 she tested positive on a random drug screen. Therefore, the North Carolina Board issued an order
17 stating that Respondent's North Carolina license is voluntarily surrendered and that she must
18 immediately cease and desist from the practice of nursing in North Carolina.

19 **PRAYER**

20 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
21 and that following the hearing, the Board of Registered Nursing issue a decision:

22 1. Revoking or suspending Registered Nurse License Number 690354, issued to Ellen
23 Marie Muir

24 2. Ordering Ellen Marie Muir to pay the Board of Registered Nursing the reasonable
25 costs of the investigation and enforcement of this case, pursuant to Business and Professions
26 Code section 125.3;

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3. Taking such other and further action as deemed necessary and proper.

DATED: August 7, 2012 Louise R. Bailey
LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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